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EXAMINER

HUANG, GIGI GEORGIANA

ART UNIT

PAPER NUMBER

1612

NOTIFICATION DATE

DELIVERY MODE

10/01/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

poreilly@licataandtyrrell.com



## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-2, drawn to a method for treating ocular disease comprising administering a nitroxide containing compound or a polyhydroxy acid containing compound.

It is noted that the claims are confusing as it is recited as both a single and a plural (e.g. "a nitroxide containing compounds". For purposes of furthering prosecution, it is interpreted as a single compound due to recitation of "a" being first in the claim language.

Group II, claims 3-4, drawn to a method for treating ocular disease comprising administering a nitroxide containing compound and a polyhydroxy acid containing compound.

Group III, claims 5-6, drawn to a method for preventing ocular disease comprising administering a nitroxide containing compound or a polyhydroxy acid containing compound.

It is noted that the claims are confusing as it is recited as both a single and a plural (e.g. "a nitroxide containing compounds". For purposes of furthering prosecution, it is interpreted as a single compound due to recitation of "a" being first in the claim language.

Group IV, claims 7-8, drawn to a method for preventing ocular disease comprising administering a nitroxide containing compound and a polyhydroxy acid containing compound.

Group V, claims 9-10, drawn to a composition comprising a nitroxide containing compound, a polyhydroxy acid containing compound, and a pharmaceutically acceptable vehicle.

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2. The inventions listed as Groups I -V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

There is no technical feature linking Groups I – V.

Group I and Group III are linked by having a composition comprising a nitroxide containing compound or a polyhydroxy acid containing compound. Group II, Group IV, and Group V however are to a composition comprising a nitroxide containing compound and a polyhydroxy acid containing compound.

Therefore, there is no technical feature linking the inventions of Groups I – V and does not define a contribution over the prior art.

3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GIGI HUANG whose telephone number is (571)272-9073. The examiner can normally be reached on Monday-Thursday 8:30AM-6:00PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fredrick Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GH  
/Zohreh A Fay/  
Primary Examiner, Art Unit 1612